

MPCS-0553395

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CIVIL ACTION NO. 2:08cv381

JURY TRIAL DEMANDED

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Pursuant to Local Patent Rule 3-1, Plaintiffs assert as follows:

Based on information presently available to them, Plaintiffs contend that Defendants MetroPCS Communications, Inc. and MetroPCS Wireless, Inc. directly and indirectly infringe at least Claims 1-5 of United States Patent No. 5,946,611 (the “‘611 patent”), Claim 9 of United States Patent No. 6,324,404 (the “‘404 patent”), Claims 10, 21, 24, 31, and 34-37 of United States Patent No. 6,847,822 (the “‘822 patent”), and Claims 1, 4, 23, 26, 28, 31, and 32 of United States Patent No. 7,289,763 (the “‘763 patent”). Plaintiffs expressly reserve the right to seek leave of Court to augment and supplement these disclosures after discovery from Defendants, or as permitted under the Patent Rules.

- (b) **Accused Instrumentalities:** [Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality (“Accused Instrumentality”) of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus must be identified by name or model number, if known. Each method or process must be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process]

Plaintiffs contend that the following products and/or services infringe at least the following claims. Plaintiffs reserve the right to seek leave of Court to augment and supplement their infringement disclosures after discovery from Defendants, or as permitted under the Patent Rules.

Accused Products/Services	Claims
Enhanced 911 (“E911”) – Phase 2	‘404: 9 ‘611: 1-5 ‘763: 1, 4 ‘822: 10, 21, 24, 31, 34-37
MetroNavigator	‘763: 23, 26, 28, 31, 32

- (c) **Claim Charts:** [A chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function]

Charts identifying where each element of the Asserted Claims are found within the Accused Instrumentalities are served herewith. Plaintiffs reserve the right to seek leave of Court to augment and supplement their infringement disclosures after discovery from Defendants, or as permitted under the Patent Rules.

(d) Literally Present: [Whether each element of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the Accused Instrumentality]

At this time, Plaintiffs contend and reasonably believe that all limitations of the Asserted Claims are met literally by the Accused Instrumentalities. To the extent that Defendants assert that certain, specific elements of the Asserted Claims are not literally met by the Accused Instrumentalities, or that such elements are, in fact, found to not be present literally, then Plaintiffs contend that any differences between the subject elements and the Accused Instrumentalities (or disputed parts thereof) are insubstantial; thus, the Accused Instrumentalities would infringe under the doctrine of equivalents. Plaintiffs reserve the right to seek leave of Court to augment and supplement their infringement disclosures after discovery from Defendants, or as permitted under the Patent Rules.

(e) Priority Date of Asserted Claims: [For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled]

The Asserted Claims of the '611, '404, '822, and '763 patents are entitled to a priority date at least as early as December 26, 1991.

(f) Plaintiff's Embodiment of the Claimed Invention: [If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim]

Not applicable.

II. DOCUMENT PRODUCTION

Documents responsive to P.R. 3-2(a) through (c) have been placed on disc and mailed overnight. Documents responsive to P.R. 3-2(a) for some or all of the patents-in-suit bear production numbers EMSAT014064 – EMSAT014069, EMSAT019220 – EMSAT019222, EMSAT019226 – EMSAT019227, EMSAT019229, EMSAT019659, EMSAT019661 – EMSAT019663, EMSAT019682 – EMSAT019684, EMSAT019692 – EMSAT019693, EMSAT020290 – EMSAT020292, EMSAT024868 – EMSAT024874, EMSAT025267 – EMSAT025318, EMSAT025469, EMSAT025471, EMSAT025539, EMSAT026113 – EMSAT026114, EMSAT026144, EMSAT026162 – EMSAT026175, and EMSAT026179. Documents responsive to P.R. 3-2(b) are inventor documents bearing production numbers EMSAT004708 – EMSAT004710, EMSAT004734 – EMSAT004745, EMSAT004752 – EMSAT004757, EMSAT004761 – EMSAT004762, and EMSAT014761 – EMSAT014927. Pursuant to P.R. 3-2(c), copies of the patent prosecution file history and subsequent reexamination file history for each of the patents-in-suit have been produced bearing the following production numbers:

'611 patent	EMSAT026599 – EMSAT026967
'404 patent	EMSAT026968 – EMSAT027618
'822 patent	EMSAT027619 – EMSAT028604
'763 patent	EMSAT028605 – EMSAT029472

Plaintiffs reserve the right to supplement this initial document production should additional, responsive materials or documents be identified.

Dated: September 18, 2009

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document and accompanying charts were served on Defendants through their counsel of record via email on this the 18th day of September, 2009.

/s/Edward R. Nelson, III